

ARBITRATION AGREEMENT

AGREEMENT made this ____th day of December, 1988 by and between the Boston Redevelopment Authority ("BRA"), a public body politic and corporate created pursuant to Chapter 652 of the Acts of 1960, as amended, and Congress 7 Limited Partnership ("Congress 7"), a Massachusetts limited partnership of which Richard H. Rubin is the managing general partner.

Factual background to this agreement.

Congress 7 is the designated developer of that certain disposition parcel within the Government Center Urban Renewal Project in the City of Boston bounded by New Congress Street, New Sudbury Street, Blackstone Street and Hanover Street known and numbered as Disposition Parcel 7. Congress 7 and the BRA had agreed that Congress 7 would purchase Disposition Parcel 7 from the BRA and construct thereon, under the supervision and control of the BRA and conformably with the Government Center Urban Renewal Plan, a hotel and office building with a below grade parking garage. Congress 7 has proceeded, with the cooperation and agreement of the BRA, to take those actions, including the development of architectural plans and environmental studies, necessary to the construction of a major redevelopment project on the premises.

The Commonwealth of Massachusetts, acting by and through its Department of Public Works, has expressed the intention of acquiring Disposition Parcel 7 from the BRA either by negotiated purchase or by the exercise of its powers of eminent domain. The Commonwealth intends to devote Disposition Parcel 7 to uses, inter alia, ancillary to the proposed reconstruction and depression of the central artery in downtown Boston. The prospective acquisition of Disposition Parcel 7 by the Commonwealth will prevent the acquisition and development of the parcel by Congress 7. The BRA has indicated that it wishes to be free of any commitments to Congress 7 with respect to Disposition Parcel 7 in order to negotiate with the Commonwealth the terms and conditions for the Commonwealth's acquisition thereof.

In furtherance of its agreements with the BRA, and with the knowledge and encouragement of the BRA, Congress has expended substantial sums and incurred substantial expense in prosecuting the redevelopment of Disposition Parcel 7. The parties are agreed that Congress 7 is entitled to reimbursement by the BRA for its usual and actual development costs incurred since its designation. The parties are not in agreement, however, on the amounts or categories of such costs to be reimbursed.

The parties have therefore entered into this agreement to submit the matter of such reimbursement to binding arbitration pursuant to Chapter 251 of the General Laws.

Undertakings of the parties.

1. Submission to arbitration. The parties hereby agree to submit to the binding arbitration of arbitrators to be selected in accordance with subsequent provisions of this agreement the question of the amount of development costs to be paid to Congress 7 by the BRA upon the sale or other transfer by the BRA of Disposition Parcel 7 to the Commonwealth or any subdivision or agency thereof, or upon any taking of said parcel from the BRA by the Commonwealth or any subdivision or agency thereof.

2. Issue to be arbitrated. The arbitrators shall determine which categories of costs paid or incurred by Congress 7 or its partners, affiliates, agents, attorneys, servants, consultants or employees are includable in those costs usually incurred in the ordinary course of preliminary development of commercial real estate projects in the City of Boston; shall determine the amounts actually paid or incurred by Congress 7 or its partners, affiliates, agents, attorneys, servants, consultants or employees in each such category; and shall award to Congress 7 an amount of money equal to the total of such amounts in all categories of such includable costs.

3. Minimum and maximum awards. The parties agree that in no event shall the arbitrators' award to Congress 7 be less than one million, five hundred thousand (\$1,500,000.00) dollars nor more than three million, eight hundred thousand (\$3,800,000) dollars.

4. Selection of arbitrators. There shall be a panel of three arbitrators. One arbitrator shall be selected by each party, and the two arbitrators shall select a third arbitrator. Congress 7 and the BRA shall each submit to the other, within seven (7) days of the execution and delivery of this agreement, their designations of their respective arbitrators. The third arbitrator shall be a certified public accountant affiliated with a major national accounting firm with at least five years experience in performing accounting services for major commercial real estate developments.

5. Decision of arbitrators. The arbitrators shall make their award by a majority vote of the three arbitrators.

6. Time for completion of arbitration. The parties agree to use their best efforts to commence and complete the arbitration proceeding in the shortest possible time. In no event shall the award of the arbitrators be rendered later than March 7, 1989. In the event that the arbitrators shall not have rendered their award by March 7, 1989, then this agreement shall be null and void and

of no effect and the parties shall be left to their respective rights and obligations existing prior to the making of this agreement as if this agreement had not been made.

7. Costs of arbitration. The parties agree that they shall each bear the fees and charges of their respective arbitrators and of their own attorneys, and that they shall bear all other costs of arbitration equally; provided, however, that (i) if the award to Congress 7 shall be equal to or less than two million (\$2,000,000.00) dollars, than all reasonable costs of arbitration, including without limitation the fees and charges of the arbitrator selected by the BRA and the reasonable attorneys fees of the BRA incurred in connection with such arbitration, shall be borne exclusively by Congress 7 and (ii) if the award to Congress 7 shall be equal to or greater than three million (\$3,000,000.00) dollars, than all reasonable costs of arbitration, including without limitation the fees and charges of the arbitrator selected by Congress 7 and the reasonable attorneys fees of Congress 7 incurred in connection with such arbitration, shall be borne exclusively by the BRA.

8. Payment of award. The BRA agrees to pay to Congress 7 the full amount of the arbitrators' award within fifteen (15) days after the receipt by the BRA of the proceeds from the sale or other transfer of Disposition Parcel 7 to the Commonwealth or any subdivision or agency thereof or the proceeds of any taking of said parcel from the BRA by the Commonwealth or any subdivision or agency thereof. The BRA shall give Congress 7 written notice care of The Richard H. Rubin Companies, 11120 Rockville Pike, Rockville, Maryland of the receipt of any such proceeds.

9. Enforceability of award. In the event that the BRA fails to pay the award of the arbitrators in full within the time specified in paragraph 8 above, Congress 7 shall be entitled to apply to the Superior Court Department of the Trial Court of the Commonwealth for enforcement of the arbitrators' award pursuant to Chapter 251 of the General Laws.

10. Release of related claims. In the event that the arbitrators render their award within the time limited in paragraph six (6) above, and that the same is timely paid by the BRA, the parties agree, simultaneously with the payment by the BRA to Congress 7 of such award, to release each other, their affiliates, partners, successors, assigns, servants, attorneys, employees, architects, consultants and all related persons from any and all claims arising out of the actions and doings of the parties or their affiliates, partners, successors, assigns, servants, attorneys, employees, architects, consultants and related persons in connection with Disposition Parcel 7, its acquisition, its redevelopment, the designation of Congress 7, the designation of Congress 7, and any costs incurred or paid by any of them with respect to the same. In the event that the arbitrators do not so render their award, the rights of the parties shall be those set forth in paragraph six (6) above. For so long as

this agreement remains in full force and effect, Congress 7 shall not commence any civil action against the BRA with respect to the issues to be arbitrated hereunder or any matter related generally to Disposition Parcel 7.

11. Rules governing arbitration proceedings. The proceedings of the arbitrators shall be conducted according to the rules of the American Arbitration Association except insofar as such rules are expressly or implicitly modified by the provisions of this agreement. In the event of any conflict between the provisions of this agreement and the rules of the American Arbitration Association, the provisions of this agreement shall govern.

12. Governing law. Except insofar as the same may be modified by the express or implicit agreement of the parties contained herein, this agreement and the arbitration hereunder shall be governed by the laws of the Commonwealth of Massachusetts.

Executed the date first above written.

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Robert L. Farrell, Chairman

CONGRESS 7 LIMITED PARTNERSHIP

By: _____
Richard H. Rubin,
Managing General Partner